

REMARKS

Reconsideration and withdrawal of the rejections of this application and consideration and entry of this paper are respectfully requested in view of the herein remarks and accompanying information, which place the application in condition for allowance.

The Examiner is kindly thanked for indicating that the rejection under 35 U.S.C. § 103(a) has been withdrawn.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-5, 7, 12, and 14 are currently under consideration. Claims 1 and 7 are amended and claims 12 and 14 are cancelled without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents.

No new matter is added.

Claims 1 and 7 are clarified to recite that the C-terminal COOH group of the peptide selected from the group consisting of D-Pro D-Tyr D-Val and D-Leu D-Thr D-Val is amidated. Support for this amendment can be found throughout the specification and claims as originally filed, for example, on page 3, lines 11-20, and in Example 2. Applicants respectfully submit that the claim amendments do not require an additional search by the Examiner.

It is further submitted that the claims herewith are patentably distinct over the prior art, and these claims are in full compliance with the requirements of 35 U.S.C. §112. The amendments to the claims presented herein are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply to clarify the scope of protection to which Applicant is entitled.

II. THE OBJECTION TO THE CLAIMS IS OVERCOME

Claim 1 was objected for containing a grammatical error in the phrase "the NH₂ groups is replaced." Applicant notes that claim 1 is amended such that this phrase is removed from the claim, thereby rendering the objection moot.

Accordingly, reconsideration and withdrawal of the objection of claim 1 are respectfully requested.

III. THE REJECTION UNDER 35 U.S.C. § 112, 1ST PARAGRAPH, IS OVERCOME

Claims 12 and 14 were rejected under 35 U.S.C. § 112, first paragraph as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. The Office Action contends that the compounds listed in Table 1 do not fall within the scope of these claims, and therefore a skilled artisan would be subjected to undue experimentation in order to practice the claimed invention.

Applicants draw attention to the amended claims, notably to claims 12 and 14 which are cancelled herein, thus obviating this rejection.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, are respectfully requested.

IV. REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH, ARE OVERCOME

Claims 1-5, 7, 12, and 14 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Office Action contends that the phrase "NH group is replaced with a COOH group" is indefinite, because the term "NH group" lacks antecedent basis and replacement of any of the NH groups with carboxyl is not possible.

Applicants note that claims 1 and 7 are amended such that the phrase "NH group is replaced with a COOH group" is herein removed from the claims. Consequently, the rejections of claims 1 and 7, as well as dependent claims 2-5, are rendered moot. Further, claims 12 and 14 are cancelled.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph are respectfully requested.

CONCLUSION

In view of the remarks and amendments herewith, the application is in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By:

A handwritten signature in black ink, appearing to read 'Ronald S. Santucci', is written over a horizontal line.

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